

Department of Education Response to LCO Report
The Department of Education incorporated the recommended revisions, except as noted below.

Substantive Concerns

1. Paragraph 2. The Department declines to implement the requested revision in part. “Child with a disability” is only applicable to those children who are found to have a disability under the IDEA and meet the IDEA criteria for eligibility. In Connecticut, “children requiring special education” means (a) children with disabilities who are eligible for special education and (b) gifted and talented children, who are not generally disabled for purposes of IDEA eligibility. The term “children requiring special education” is used where the reference is to gifted and talented children. To provide clarity, a definition of “child with a disability” is added to section 10-76a-1. All other references have been corrected to “children with a disability” where it is appropriate to do so.
2. Paragraph 6. The proviso has been amended to read: “except if a child identified as gifted or talented is also identified as a child with a disability, then the child shall receive special education and related services”.
3. Paragraph 7. The IDEA allows the states the discretion to determine if children educated at home are considered parentally placed private school children. The section has been broken into two subsections, Identification and Eligibility for services for parentally placed private school children or children educated at home by their parents.
4. Paragraph 8. The proposed revision to subsection (b), “Notwithstanding the provisions of this section, a board of education shall accept a referral for an initial evaluation to determine if a child is a child with a disability and shall convene a PPT meeting to consider the referral to determine if an evaluation of the child is appropriate”, is revised to read as follows: “If a child is receiving alternative procedures and programs in general education and the board of education of such child receives a referral for an initial evaluation, such board shall (1) accept the referral for an initial evaluation to determine if a child is a child with a disability and shall convene a PPT meeting to consider the referral to determine if an evaluation of the child is appropriate and (2) continue the alternative procedures and programs in general education.” The PPT does not direct the alternative procedures and programs being utilized in general education.
5. Paragraph 10. The Department declines to implement the requested revisions in part. The term “learning disability” will be added to the definitional section, 10-76a-1 and the federal definition adopted. The term “learning disability” is not synonymous with the the phrase “child with a disability”. A “learning disability” is a category of disability in the IDEA. The state is required to adopt standards for the identification of children with learning disabilities. The language used in the proposed revision is taken from the IDEA, see section 34 CFR 300.309 with the Department selecting criteria as required. The terms and phrases used in this section are generally understandable in the education community and do not require definition in the regulations. The Department has provided extensive guideline documents which

detail the evaluation process for determining a learning disability. Catchline indicators in boldface are added to the section for clarity.

6. Paragraph 11. See 5 above for response.
7. Paragraph 12. See 5 above for response.
8. Paragraph 13. The Department declines to implement the requested revision. The consent requirements for evaluating all children who may require special education are found in section 10-76d-8 of the state regulations. The language cited in section 10-76d-9(b)(4) is taken from the IDEA regulation which sets the standard for the identification of a child with a learning disability; the IDEA does not have comparable language for evaluating other disabilities. The IDEA has specific provisions for securing parental consent for a special education evaluation for a learning disability and takes into consideration that alternative programs and services provided in the general education classroom will be utilized before a child is evaluated to determine the existence of a learning disability. The IDEA has specific provisions for extending the timeline for the evaluation of a suspected learning disability with the mutual consent of the parents and the board of education. The IDEA does not have a specific timeline for the completion of an evaluation and the implementation of an IEP if the child is found eligible. The state does. The language referencing Section 10-76d-13 takes into account the state timeline
9. Paragraph 16. It is noted the IDEA uses the term “measurable annual goal, including academic and functional goals designed to meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum and meet each of the child’s other educational needs that result from the child’s disability.” This language has been substituted for “annual educational goals”.
10. Paragraph 18. The Department agrees that Section 10-94g of the general statutes should be amended to specifically provide for the appointment of a surrogate parent as described in the proposed regulations. The reference to Section 10-94g of the general statutes is removed.
11. Paragraph 19. The following language is added to the subsection: “For purposes of this subsection, ‘bona fide interest in and knowledge of the child’ means an adult who understands and is familiar with the educational needs of such child including, but not limited to an adult who (1) is able to understand the nature, extent and probable consequences of a proposed educational program or option on a continuing or consistent basis for such child; and (2) can make a rational evaluation of the benefits or disadvantages of a proposed educational decision or program as compared with the benefits or disadvantages of another proposed educational decision or program on a continuing or consistent basis. In no case shall such adult be an employee of the board of education providing services to the child.”
12. Paragraph 20. The 60 day timeline was a reference to the initial proposed revisions and should have been eliminated once the amendments to the regulations were revised. This timeline reference has been corrected to cite the Connecticut regulation concerning timelines for implementing a child’s IEP after a referral is made.
13. Paragraph 21. The language has been revised to read as follows: “Before a board of education decides that a child with a disability cannot be appropriately placed in a school operated by such board of education or a program operated on behalf of such board of education such as a program operated by a private special education program

- or a regional educational services center in a public school building, the board shall explore all other placement options consistent with the least restrictive environment requirements of the IDEA.”
14. Paragraph 22. “At no cost” is a term defined in the IDEA. The state special education regulations incorporate the IDEA standards by reference. Educational services for a child with a disability must be provided consistent with the IDEA which would include services provided “at no cost” to parents.
 15. Section 10-76b-3 was added to the repealer section in the proposed regulations. The Department will indicate on the Certification page an effective date of July 1, 2013 to move the effective date of the revisions to the beginning of a new school year.

Technical Corrections: All recommended technical corrections were made. The following are areas where the Department added a correction not included in the LCO analysis.

1. Paragraph 7: The phrase “the technical high school system” as added for clarity.
2. Paragraph 11. The reference to “these regulations” should be changed to “this section”. The terms “extraordinary learning ability” and “outstanding talent in the creative arts” are defined in this section only.
3. Paragraph 14: The language “Conform to applicable building code requirements” was inserted in the beginning of section 10-76b-8(h)(5) to address the format issue.
4. Paragraph 17. The language “A child with a disability” was added to the last sentence in section 10-76d-1(a)(2) for consistency.
5. In section 10-76d-1(a)(3) in new subdivision (C), the language “by such board” was added in the beginning of (C) for clarity.
6. Paragraph 22: In subdivision (1), the word “and” was added before the phrase “the instructional support...” for clarity.
7. Paragraph 25: In subdivision (1), the word “device” was added to the catchline for consistency; the phrase “assistive technology device” was added after the word equipment in the fourth line for consistency.
8. Paragraph 30: Section redrafted to incorporate IDEA language on notice and consent to respond to Paragraph 9 in substantive concerns. Technical corrections were made as requested.
9. Paragraph 31: The Department declines to implement the requested revision. The evaluation/reevaluation must be consistent with the IDEA requirements. Moving the phrase “in accordance with the IDEA” makes this unclear. The phrase “qualifies as a child” was replaced with “is a child” for clarity. A catchline was added for clarity.
10. Paragraph 37. The Department declines to implement the requested revision in part. The Department agrees the section is not clear; the suggested revision is duplicative of the current language of the section and does not provide the needed clarity. The language in the section has been revised to read: “Each board of education shall establish a sufficient number of planning and placement teams (1) to ensure that all children requiring special education and related services within its jurisdiction [shall receive special education and related services] are located, evaluated and identified, and (2) to develop and implement an individualized education program for each child who is found eligible for special education and related services. The planning and placement team shall be responsible for the following.”

11. Paragraph 42. The phrase “the state law and regulations concerning the provision of special education” was replaced with “sections 10-76a to 10-76ii, inclusive, of the Connecticut General Statutes, section 10-76b-9 and sections 10-76a-1 to 10-76d-19, inclusive, of the Regulations of Connecticut State Agencies” for consistency.
12. Paragraph 39: The phrase “in accordance with the provisions of the IDEA” is added after the closing bracket for clarity.
13. Paragraph 47: The Department declines to implement the requested revision in part. The use of the term “current” is deliberate and has a very specific meaning within the context of IDEA due process requirements. Case law in Connecticut has determined that a trial placement for diagnostic purposes is an evaluation and is not the child’s current placement for stay put purposes. The phrase “conducted in accordance with 20 USC 1415(j) of the IDEA and the regulations adopted thereunder, as amended from time to time,” has been added to the section for clarity. The “**Program**. [Each” has been revised to “ [b**Program**. Each” for accuracy.
14. Paragraph 48: The Department declines to implement the requested revision in part. The homebound/hospitalized instruction is available for all children enrolled in the public school, not just for children with disabilities. The reference to “child with a disability” would inappropriately limit the provision of services.
15. Paragraph 50. The Department declines to implement the requested revision. Homebound instruction is available for any child enrolled in the public schools who cannot attend school because of medical issues.
16. Paragraph 53: The reference to “preschool” is removed as the definition has been eliminated from the regulations. The language “for children aged 3, 4 or 5 with a disability” is added for consistency.
17. Paragraph 54: In the line where the word “student” is used, the word “child” is used for consistency.
18. Paragraph 62. The word “students” was changed to “children” for consistency.
19. Paragraph 69: The citations to the IDEA have been revised to read “Part B of the IDEA, 20 USC 1400 et. seq. and the regulations adopted thereunder, as amended from time to time”.
20. Paragraph 75: The Department declines to implement the recommended revision. The time line for the completion of a hearing under the IDEA is a 45 day timeline with multiple exceptions. The timeline may be adjusted depending on what action the parties to a hearing may take with respect to filing a request for a hearing. For example, if a parent files for a hearing, the board of education must offer a resolution session, which may postpone the timeline for 30 days. If the board of education requests the hearing, the resolution session is not required. If either party requests an expedited hearing, postponements are not allowed. Utilizing the recommended language “not later than 45 days” does not capture the multiple adjustments to the timeline permitted by the IDEA.